



January 16, 2015

SENATE BILL No. 80

DIGEST OF SB 80 (Updated January 14, 2015 11:52 am - DI ck)

Citations Affected: IC 6-10 .

Synopsis: Taxation of Internet access. Provides that neither the state nor a political subdivision may impose, assess, collect, or attempt to collect a tax on Internet access or the use of Internet access.

Effective: Upon passage.

Long

January 6, 2015, read first time and referred to Committee on Rules & Legislative Procedure.

January 15, 2015, amended; reassigned to Committee on Tax & Fiscal Policy.

SB 80—LS 6158/DI 13



January 16, 2015

First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 80

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-10 IS ADDED TO THE INDIANA CODE AS A
2 **NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON**
3 **PASSAGE]:**

4 **ARTICLE 10. TAXATION OF INTERNET ACCESS**
5 **Chapter 1. Prohibition on State or Local Tax on Internet Access**
6 **Sec. 1. As used in this chapter, "Internet" means the myriad of**
7 **computer and telecommunications facilities, including equipment**
8 **and operating software, that comprises the interconnected**
9 **worldwide network of networks that employ the Transmission**
10 **Control Protocol/Internet Protocol (or any predecessor or**
11 **successor protocols to that protocol) to communicate information**
12 **of all kinds by wire or radio.**

13 **Sec. 2. (a) As used in this chapter, "Internet access" means a**
14 **service that enables users to connect to the Internet to access**
15 **content, information, or other services offered over the Internet,**
16 **without regard to whether the service is referred to**

SB 80—LS 6158/DI 13



1 telecommunications, communications, transmission, or similar
2 services, and without regard to whether a provider of the service
3 is subject to regulation by the Federal Communications
4 Commission as a common carrier under 47 U.S.C. 201 et seq.

5 (b) The term also includes the following:

6 (1) The purchase, use, or sale of communications services,
7 including telecommunications services (as defined in
8 IC 6-2.5-1-27.5), by a provider of a service described in
9 subsection (a), to the extent the communications services are
10 purchased, used, or sold to provide the service described in
11 subsection (a) or to otherwise enable users to access content,
12 information, or other services offered over the Internet.

13 (2) Services that are incidental to the provision of a service
14 described in subsection (a), when furnished to users as part of
15 such service, including a home page, electronic mail and
16 instant messaging (including voice-capable and video-capable
17 electronic mail and instant messaging), video clips, and
18 personal electronic storage capacity.

19 (3) A home page, electronic mail and instant messaging
20 (including voice-capable and video-capable electronic mail
21 and instant messaging), video clips, and personal electronic
22 storage capacity that are provided independently or that are
23 not packaged with Internet access.

24 (c) The term does not include:

25 (1) voice, audio, or video programming; or

26 (2) other products and services, except services described in
27 subsection (a) or (b), that use Internet protocol or any
28 successor protocol and for which there is a charge, regardless
29 of whether the charge is separately stated or aggregated with
30 the charge for services described in subsection (a) or (b).

31 Sec. 3. (a) As used in this chapter, the term "tax" means:

32 (1) any charge that is imposed by the state or a political
33 subdivision of the state for the purpose of generating revenues
34 for governmental purposes and, except as provided in
35 subsection (b), is not a fee imposed for a specific privilege,
36 service, or benefit conferred; or

37 (2) the imposition on a seller of an obligation to collect and to
38 remit to the state or a political subdivision of the state any
39 gross retail tax, sales tax, or use tax imposed on a buyer by
40 such a governmental entity.

41 (b) The term does not include any franchise fee or similar fee
42 imposed by the Indiana utility regulatory commission under



1 **IC 8-1-34-23 under Section 622 or 653 of the Communications Act**
 2 **of 1934 (47 U.S.C. 542, 47 U.S.C. 573), or any other fee related to**
 3 **obligations or telecommunications carriers under the**
 4 **Communications Act of 1934 (47 U.S.C. 151 et seq.), except to the**
 5 **extent that:**

6 **(1) the fee is not imposed for the purpose of recovering direct**
 7 **costs incurred by the franchising or other governmental**
 8 **authority from providing the specific privilege, service, or**
 9 **benefit conferred to the payor of the fee; or**

10 **(2) the fee is imposed for the use of a public right-of-way**
 11 **based on a percentage of the service revenue and the fee**
 12 **exceeds the incremental direct costs incurred by the**
 13 **governmental authority associated with the provision of that**
 14 **right-of-way to the provider of Internet access service.**

15 **(c) For purposes of subsection (b), "direct costs" means costs**
 16 **incurred by a governmental authority solely because of an Internet**
 17 **service provider's use of the public right-of-way. The term does not**
 18 **include costs that the governmental authority would have incurred**
 19 **if the Internet service provider did not make such use of the public**
 20 **right-of-way. Direct costs shall be determined in a manner**
 21 **consistent with generally accepted accounting principles.**

22 **Sec. 4. (a) As used in this chapter, "tax on Internet access or the**
 23 **use of Internet access" means a tax on Internet access, or any use**
 24 **of Internet access, regardless of whether the tax is imposed on a**
 25 **provider of Internet access or a buyer of Internet access and**
 26 **regardless of the terminology used to describe the tax.**

27 **(b) The term does not include a tax levied upon or measured by**
 28 **net income, capital stock, net worth, or property value.**

29 **Sec. 5. Neither the state nor a political subdivision of the state**
 30 **may impose, assess, collect, or attempt to collect a tax (including a**
 31 **tax under IC 6-2.5) on Internet access or the use of Internet access.**

32 **SECTION 2. An emergency is declared for this act.**



COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 80, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Tax & Fiscal Policy.

(Reference is to SB 80 as introduced.)

LONG, Chairperson

